

Indiana Public Defender Commission Meeting Minutes

July 13, 2006

Chairman Norman Lefstein called the meeting to order at 2:17 p.m. Commission members attending were: Hon. Daniel Donahue, Mr. Les Duvall, Rep. Ralph Foley, Ms. Monica Foster, Ms. Bettye Lou Jerrel, Sen. Timothy Lanane, and Sen. Joseph Zakas. Also attending was Larry Landis of the Indiana Public Defender Council, Michael Murphy and Deborah Neal, Staff Counsel for the Commission, and Amber Holland, recording secretary. Members not attending were Susan Carpenter and Rep. Bob Kuzman.

Public Defender Chiefs in attendance were Brian Michaud, Miami County, David Cook, Marion County, Mark Stamper, Henry County, and Stephen Owens, Vanderburgh County. Miami Circuit Court Judge, Rosemary Higgins Burke and Victoria Ursulskis, Executive Deputy, Marion County, were also present.

- 1) **Meeting Minutes:** Chairman Lefstein presented the revised April 5, 2006 Public Defender Commission minutes for approval. Bettye Lou Jerrel moved for approval, Ralph Foley seconded, and the April 5, 2006 minutes passed unanimously. Chairman Lefstein presented the minutes of the special meeting of May 4, 2006, pointing out changes to paragraphs 2 and 3, and suggesting the addition of the word “unanimously” to the last line of paragraph 3. Upon request for objections to the minute changes, no objections were voiced. Les Duvall moved to approve the May 4, 2006 Public Defender Commission minutes as amended, and Bettye Lou Jerrel seconded the motion. The vote was unanimous to accept the May 4, 2006 amended minutes.
- 2) **Proposed Task Force Studying Indigent Defense in Indiana:** Chairman Lefstein reported meeting with Chief Justice Randall Shepard and discussing the establishment of a commission to examine in depth how indigent defense services are being delivered in the state. The meeting was held at the end of June, and present were Chief Justice Shepard, Chairman Norman Lefstein, Commissioner Les Duvall, and Larry Landis of the Indiana Public Defender Council. The purpose of the meeting was to determine if the Chief Justice would be interested in appointing a state-wide study or task force, or if the Public Defender Commission should proceed on its own, with the understanding and acceptance of the Chief Justice. Chairman Lefstein reports he is hopeful that the Commission will have a response from the Chief Justice by its meeting in October.
- 3) **Claims for 50% Reimbursement in Capital Cases:** The Commission addressed claims for 50% reimbursement in capital cases as follows:

Reimbursement Requests in Capital Cases			
July 13, 2006			
COUNTY	DEFENDANT		TOTAL
Clark	Melcher		\$8,365.56
Lake	Aki-Khuam (Williams)		\$17,297.75
	Britt		\$11,574.36
	Jeter		\$30,540.91

Madison	Baer		\$15,649.43
Marion	Adams	*	\$1,802.31
	Adams 2		\$542.01
	Allen	*	\$7,977.83
	Allen 2		\$9,656.05
	Barker		\$1,730.66
	Holland		\$2,809.95
	Voss		\$8,005.35
	Voss		\$4,535.11
	Voss	*	\$10,659.49
Parke	Cottrell		\$13,701.69
Spencer	Ward		\$6,346.87
Tippecanoe	Gauvin		\$7,979.71
TOTAL			\$159,175.04

* Adams past 120-day deadline - Reconsideration request from auditor attached

* Allen past 120-day deadline - Reconsideration request from auditor attached

* Voss - reimbursement denied 4/6/06 due to late filing-now submitted for reconsideration

The Commission discussed the three claims from Marion County for death penalty cases that were not timely filed with the Commission in April 2006. The Marion County Auditor submitted a letter asking for reconsideration from the Commission for payment of the Voss, Adams and Allen claims, which were presented after the 120-day deadline for filing. Staff counsel, Deborah Neal, explained the 120-day rule for filing death penalty claims, and noted the Marion County Auditor's reason for the untimely filing was staff changes within the office. There was also a commitment from the Auditor to timely filing future claims. Ms. Jerrel asked if Marion County did not get the information that there is a 120-day deadline. David Cook of the Marion County Public Defender Agency stated that in the past the Commission's staff had not been quite as strict with following the 120-day guideline, but he assured the Commission that Marion County would timely file claims in the future. Bettye Lou Jerrel moved to authorize the payment on the late claims for Marion County, and Sen. Tim Lanane seconded the motion. Judge Daniel Donohue abstained from voting. Motion passed.

A motion and second to approve all other capital claims was inadvertently omitted from the meeting. The Commission staff contacted, by telephone, all members present at the July 13, 2006 meeting, and received a motion by Bettye Lou Jerrel to pay all other capital claims presented at this meeting; the motion was seconded by Sen. Timothy Lanane. Mr. Les Duvall and Norman Lefstein voted in favor of the motion. Monica Foster and Judge Donohue abstained from voting. Motion passed.

Deborah Neal reported to the Commission that an attorney in Vigo County and one in Tippecanoe County received waivers from the Supreme Court to be appointed to capital cases, contingent upon completing the 12 CLE's required by Criminal Rule 24, as soon as possible, and were then appointed by the respective trial courts to open death penalty cases. Ms. Neal noted that the claims would be coming into the Commission for attorney hours at a time when the capital defense counsel was not qualified. She asked for the opinion of the State Court Executive Administrator, and was told that since the Chief

Justice granted the waivers it was not for the Commission to call them unqualified for purposes of receiving reimbursement.

Next, Deborah Neal asked the Commission to approve the death penalty defense training provided by the National Consortium for Capital Defense Training, in conjunction with the Clarence Darrow Death Penalty Defense College in Chicago, held May 30 to June 3, 2006, as continuing legal education for Criminal Rule 24 qualifications. This seminar had 38 credits available to participants. Les Duvall moved that the Commission authorize this program as fulfilling the CLE requirements of CR24, and Timothy Lanane seconded the motion. Motion passed unanimously.

- 4) **Claims for 40% Reimbursement in Non-Capital Cases: Before** giving specific attention to reimbursement requests in non-capital cases, Chairman Lefstein presented a proposal for dealing with non-reimbursable county expenditures. Chairman Lefstein noted the proposed changes would have implications for what is approved at this meeting, implications going forward, and will likely lead to greater claims upon our budgetary resources. The proposal distributed to the members present is as follows:

Proposal to Eliminate Method for Determining the Amount of
Non-Reimbursable County Expenditures for Indigent Defense
Justification for Change

For many years, the Commission has used a relatively complicated mathematical formula for determining the amount of a county's non-reimbursable indigent defense expenditures. The formula is difficult to explain and is not well understood by county chief public defenders and other county officials. Sometimes the mechanical formula penalizes counties by weighing more heavily their misdemeanor and other non-reimbursable indigent defense expenses than would be justified based upon examination of their actual non-reimbursable expenditures. Conversely, the formula may sometime award counties additional funds to which they would not be entitled if only actual non-reimbursable expenses were considered.

But regardless of how the formula plays out in practice clearly its use has been a constant source of irritation for chief public defenders and other county officials and especially in recent months has been a frequent source of friction between the Commission's staff and chief public defenders. Elimination of the formula is certain to be well received among the Commission's eligible counties and should do much to restore trust and confidence between Commission staff and persons with whom they interact.

Proposed Change

The elements of the proposed change are as follows:

- Counties will be required, as they are now, to list all of their expenditures on the form that has been designated.
- Counties will be required to deduct from their total expenditures, the cost of salaries and overhead related to non-reimbursable misdemeanors and other non-reimbursable cases. (The amount of these non-reimbursable expenses will be shown on the face of the "Request for Reimbursement" form; the form will be modified in order to show this deduction as well as the final sum eligible for 40% reimbursement.)

- Counties will be required to show in writing the method that they used to determine the amount of their non-reimbursable salaries and other expenses.
- The Commission will accept a county's explanation of its non-reimbursable indigent defense expenditures unless it is patently clear that the method of computation is neither fair nor reasonable.

Implementation

The proposal for implementing this change is as follows:

- The change will be implemented beginning with second quarter reimbursement requests for calendar year 2006.
- Counties will be advised of the changes in a letter to be sent to them during the week of July 17, 2006.
- Counties will be afforded additional time, i.e., until August 31, 2006, in which to submit without penalty their second quarter requests for reimbursement. (Absent this extension, all county reimbursement requests would be due by August 15.)
- Respecting first quarter payments for 2006, Counties will be advised that they can accept the Commission's computation pursuant to its formula for non-reimbursable indigent defense expenditures, or alternatively, they can submit additional information to the Commission explaining their non-reimbursable defense expenditures, and the Commission will then determine whether the county may be due a supplemental payment.

Chairman Lefstein provided examples where the long-standing formula used by the Commission to determine non-reimbursable expenses resulted in undue hardship to some counties. Bettye Lou Jerrel noted that county councils and auditors should be warned if the proposed changes are adopted, that prorating is going to come sooner than later. Chief Public Defenders David Cook and Steve Owens offered testimony in favor of the proposed changes. Discussion followed regarding which quarters of 2006 would be effected by the proposed change in reporting. Rep. Ralph Foley, Sen. Timothy Lanane and Judge Daniel Donahue stated the changes should be prospective and not include the 1st quarter of 2006. David Cook pointed out that using the formula in the 1st quarter costs Marion County, in part, \$164,000 because of one attorney's misdemeanor caseload. Deborah Neal further explained the difference in Marion County's 1st quarter reporting if figured by the formula or reported in accordance to the proposed changes, and noted that the monetary difference was significant. David Cook offered a compromise in the interest of finality to split the difference of additional monies requested by Marion County for the 1st quarter 2006. Mike Murphy informed the Commission that including the 1st quarter of 2006 in the proposed changes would cause prorating in the next quarter. Chairman Lefstein called for a motion. Sen. Timothy Lanane moved for approval of the Proposal to Eliminate the Method for Determining the Amount of Non-Reimbursable County Expenditures. Bettye Lou Jerrel asked if that included going back to the first quarter. Sen. Lanane said it does. Les Duvall seconded the motion. Chairman Lefstein asked if there was further discussion and then called for a vote. Sen. Timothy Lanane, Sen. Joseph Zakas, Les Duvall and Norman Lefstein voted in favor of the motion. Bettye Lou Jerrel, Rep. Ralph Foley and Judge Daniel Donahue voted against the motion. The motion passed 4 to 3. (Monica Foster had not yet arrived at the meeting)

5) Financial **Status and Biennial Recommendations:** Chairman Lefstein directed the Commission to the staff analysis of the financial recommendation for future adequate funding of indigent defense. The recommendation

is \$14 million for fiscal year 2007-2008, if no new counties qualify for reimbursement, or \$16 million for the same year if five new counties are added to the program. The recommendation is \$15 million for fiscal year 2008-2009, if no new counties qualify for reimbursement, or \$17 million for the same year if five new counties are added to the program. Chairman Lefstein asked Larry Landis if he thought the Commission should ask the Chief Justice for the \$16 - \$17 million figure, in anticipation of future growth, and Mr. Landis agreed. Ralph Foley moved to request \$16 million in 2007-2008, and \$17 million in 2008-2009, in a letter to the Chief Justice. Monica Foster seconded the motion. Chairman Lefstein called for the vote. The motion passed unanimously.

6) **Revision of Standard J:** The following revisions to Standard J were presented to the Commission:

STANDARD J.

CASELOADS OF COUNSEL. The comprehensive plan shall insure that all counsel appointed under the plan are not assigned caseloads which, by reason of their excessive size, interfere with the rendering of quality representation or lead to the breach of professional obligations. In determining whether the caseloads are excessive, the following caseload guidelines are recommended.

1. **Caseloads for Counsel Without Adequate Support Staff.** Salaried, contractual, or assigned counsel that do not have support staff consistent with Table 2 should generally not be assigned more than the number of cases in Table 1 in any one category in a 12-month period. The categories in Table 1 should be considered in the disjunctive. Thus, if counsel is assigned cases from more than one category, the percentage of the maximum caseload for each category should be assessed and the combined total should generally not exceed 100%.

02-06-06 *PROPOSED* (revised)TABLE 1

Type of Case	Full Time	Part Time (50%)
TRIAL		
All Felonies (for use in CR 24 compliance only)	120	60
Non-Capital Murder; Class A, B, C felonies	100	50
Class D felonies only	150	75
Misdemeanors only	300	150
JD-C Felony and above	200	100
JD-D Felony	250	125
JD-Misd	300	150
JS-Juvenile Status	400	200
JC-Juvenile CHINS	100	50
JT-TPR	100	50
Juvenile Probation violation	400	200
JM-Juvenile Miscellaneous	400	200
Other (e.g., probation violation, contempt, extradition)	300	150
APPEAL	20	10

2. **Caseloads for Counsel With Adequate Support Staff.** Salaried, contractual, or assigned counsel with support staff consistent with Table 2 should generally not be assigned more than the number of cases in Table 3 in any one category in a 12-month period. The categories in Table 3 should be considered in the disjunctive. Thus, if counsel is assigned cases from more than one category, the percentage of the maximum caseload for each category should be assessed and the combined total should generally not exceed 100%.

TABLE 2

Paralegal – Felony	One for every four attorneys
Paralegal – Misdemeanor	One for every five attorneys
Paralegal – Juvenile	One for every four attorneys
Paralegal – Mental Health	One for every two attorneys
Investigator – Felony	One for every four attorneys
Investigator – Misdemeanor	One for every six attorneys
Investigator – Juvenile	One for every six attorneys
Law Clerk – Appeal	One for every two attorneys
Secretary – Felony	One for every four attorneys
Secretary – Misdemeanor	One for every six attorneys
Secretary – Juvenile	One for every five attorneys

02-06-06 PROPOSED TABLE 3

Type of Case	Full Time	Part Time (50%)
TRIAL		
All Felonies (for use in CR 24 compliance only)	150	75
Non-Capital Murder; Class A, B, C felonies	120	60
Class D felonies only	200	100
Misdemeanors only	400	200
JD-C Felony and above	250	125
JD-D Felony	300	150
JD-Misd	400	200
JS-Juvenile Status	500	250
JC-Juvenile CHINS	120	60
JT-TPR	120	60
Juvenile Probation violation	500	250
JM- Juvenile Miscellaneous	400	200
Other (e.g., probation violation, contempt, extradition)	400	200
APPEAL	25	12

Chairman Lefstein noted that the proposed changes had been discussed at the meeting in May. Mike Murphy explained the changes, as seen in proposed Tables 1 and 3. He reported that two categories are being eliminated; “Non-Capital Murder and all felonies” and “Class D felonies and misdemeanors.” “All Felonies (for use in CR24 compliance only)” is added. Sen. Timothy Lanane moved to adopt the new “Standard J,” and Rep. Ralph Foley seconded the motion. Motion passed unanimously.

8) **Form Revisions to Request for Reimbursement in Non-capital Cases:** Chairman Lefstein noted that due to prior action of changing how reimbursement requests in non-capital cases are to be reported, the form will be amended to conform to the new changes.

9) **Analysis of Requests for 40% Reimbursement in Non-capital Cases:** Staff Counsel, Mike Murphy reported compliance issues to the Commission. Lake County has appellate attorneys who are severely out of compliance. Chairman Lefstein stated that due to the clarification at the May meeting of the Commission, to consider caseloads on a rolling 12-month period for compliance issues, and that the 12-month period begins with the 1st quarter of 2006, Lake County should not have funding withheld, but be advised that they need to be

aware of the compliance issues going forward for the year 2006. Dave Schneider, Chief Public Defender of Lake County, needs to be advised that the spreadsheet furnishes a way for a supervisor, or chief defender, to monitor the caseloads of their lawyers.

Mike Murphy stated that Marion County issues fall into the same category. It was noted that Marion County's domestic violence defense attorneys have reached almost half a year's quota in the 1st quarter. David Cook said they are aware of that problem, and have asked the county for an additional \$3.9 million to hire 13 full-time D-felony lawyers to address the very issue that "Standard J" raised.

Chairman Lefstein suggested developing a letter to the counties warning of attorney caseloads that are out of compliance. Judge Rosemary Higgins Burke, Miami Circuit Court, stated that Miami County would be on that list of counties out of compliance because of the Commission's adoption of a rolling year for determining compliance. Judge Burke said that in October, Miami County reaches its quota of allowable caseloads, and at that time, hires attorneys on an hourly basis to fill up the rest of the year. In order to participate in the program, she explained that Miami County would have to hire three more attorneys, adding, number one, the county does not have three more attorneys in town to do that, and two, the county will not give us the funding. Bettye Lou Jerrel pointed out that there are also funding problems due to the legislature doing their business on a totally different schedule than the counties.

Chairman Lefstein explained the thinking of the Commission is how many cases can a lawyer really handle over the course of a 12-month period; beginning date does not matter. The Commission's standards have caused counties to reduce caseloads of their lawyers. We have had all kinds of impact in terms of counties coming up with additional funds, but it has never been linked to a calendar year. Judge Burke stated that what Miami County does after its public defenders reach their quota – contracting with other attorneys, is outside the public defender reimbursement reporting. Brian Michaud, Miami Chief Public Defender, said he thinks smaller counties start to focus on Commission standards and caseload numbers, and find they need more attorneys. The prosecutors don't have caseload standards, so the counties think why should defenders have to increase their personnel. It makes it difficult to tell the county that we need more money to stay in the program; it is just easier to contract with an attorney locally to do unlimited caseloads because we don't ask for reimbursement. Chairman Lefstein pointed out that the Commission's caseload standards are applicable to contract attorneys. Judge Burke stated if Miami County does not seek reimbursement for them, they are not held to the Standards. Chairman Lefstein said the conception of this Commission has always been that if there are indigent cases being handled by lawyers, we want to look at the total caseload of the individual attorney. Judge Burke said you'd never know, because I will not be seeking reimbursement for that attorney contracting cases in October until December 31st. Chairman Lefstein inform Judge Burke that if Miami County has an eligible Comprehensive Plan that has been approved by the Commission, then the Commission is seeking that information. He further explained that if there are attorneys handling felonies – reimbursable cases – and misdemeanors – non-reimbursable cases, all the cases must still be reported to determine if the attorney is out of compliance on the number of cases he/she can handle.

Chairman Lefstein then asked what other counties needed to be discussed. Mike Murphy reported there are issues with Vanderburgh, Steuben and Switzerland counties. Chairman Lefstein said he would entertain a motion to approve the 40% reimbursement for all counties, with the exception of Vanderburgh, Steuben and Switzerland. Rep. Ralph Foley so moved. Sen. Timothy Lanane seconded the motion. Motion passed unanimously. The 40% reimbursement requests are as follows:

INDIANA PUBLIC DEFENDER COMMISSION

Analysis of First Quarter Requests for Reimbursements in Non-Capital Cases

7/13/06

County	Penalty Factor	Period Covered	Total Expenditure	Adjustment	Eligible Expenditure	Reimbursement
ADAMS	0.00	1/1/06 - 3-31-06	\$67,088.05	\$13,006.87	\$54,081.18	\$21,632.47
ALLEN	0.00	1/1/06 - 3-31-06	\$677,556.66	\$345.16	\$677,211.50	\$270,884.60
BENTON	0.00	1/1/06 - 3-31-06	\$26,044.14	\$6,313.73	\$19,730.41	\$7,892.16
BLACKFORD	0.00	1/1/06 - 3-31-06	\$15,048.63	\$0.00	\$15,048.63	\$6,019.45
CARROLL	0.00	1/1/06 - 3-31-06	\$24,408.12	\$5,366.32	\$19,041.80	\$7,616.72
CLARK	0.00	1/1/06 - 3-31-06	\$97,895.01	\$3,514.18	\$94,380.83	\$37,752.33
DECATUR	0.00	1/1/06 - 3-31-06	\$34,322.30	\$14,300.96	\$20,021.34	\$8,008.54
FAYETTE	0.00	1/1/06 - 3-31-06	\$86,049.62	\$20,531.14	\$65,518.48	\$26,207.39
FLOYD	0.00	1/1/06 - 3-31-06	\$240,901.74	\$0.00	\$240,901.74	\$96,360.70
FOUNTAIN	0.00	1/1/06 - 3-31-06	\$17,411.06	\$5,110.34	\$12,300.72	\$4,920.29
FULTON	0.00	1/1/06 - 3-31-06	\$66,266.37	\$24,154.79	\$42,111.58	\$16,844.63
GRANT	0.00	1/1/06 - 3-31-06	\$174,528.00	\$5,111.70	\$169,416.30	\$67,766.52
GREENE	0.00	1/1/06 - 3-31-06	\$59,510.45	\$0.00	\$59,510.45	\$23,804.18
HANCOCK	0.00	1/1/06 - 3-31-06	\$66,458.15	\$15,639.21	\$50,818.94	\$20,327.58
HENRY	0.00	1/1/06 - 3-31-06	\$88,097.79	\$327.50	\$87,770.29	\$35,108.12
JASPER	0.00	1/1/06 - 3-31-06	\$26,530.00	\$7,823.71	\$18,706.29	\$7,482.52
JAY	0.00	1/1/06 - 3-31-06	\$57,562.26	\$19,334.75	\$38,227.51	\$15,291.00
JENNINGS	0.00	1/1/06 - 3-31-06	\$38,727.50	\$9,120.24	\$29,607.26	\$11,842.90
KNOX	0.00	1/1/06 - 3-31-06	\$200,631.57	\$47,081.05	\$153,550.52	\$61,420.21
KOSCIUSKO	0.00	1/1/06 - 3-31-06	\$74,931.56	\$0.00	\$74,931.56	\$29,972.62
LAKE	0.00	1/1/06 - 3-31-06	\$794,240.71	\$2,893.41	\$791,347.30	\$316,538.92
LAPORTE	0.00	1/1/06 - 3-31-06	\$118,571.50	\$22,806.14	\$95,765.36	\$38,306.14
MADISON	0.00	1/1/06 - 3-31-06	\$378,797.94	\$18,972.90	\$359,825.04	\$143,930.02
MARION	0.00	1/1/06 - 3-31-06	\$2,796,660.81	\$1,108,894.73	\$1,687,766.08	\$675,106.43
MARTIN	0.00	1/1/06 - 3-31-06	\$0.00	\$0.00	\$0.00	\$0.00
MIAMI	0.00	1/1/06 - 3-31-06	\$84,449.60	\$18,890.04	\$65,559.56	\$26,223.82
MONROE	0.00	1/1/06 - 3-31-06	\$271,261.58	\$79,412.29	\$191,849.29	\$76,739.72
MONTGOMERY	0.00	1/1/06 - 3-31-06	\$35,188.98	\$12,619.96	\$22,569.02	\$9,027.61
NEWTON	0.00	1/1/06 - 3-31-06	\$0.00	\$0.00	\$0.00	\$0.00
NOBLE	0.00	1/1/06 - 3-31-06	\$61,094.88	\$1,592.68	\$59,502.20	\$23,800.88
OHIO	0.00	1/1/06 - 3-31-06	\$16,382.71	\$5,908.26	\$10,474.45	\$4,189.78
ORANGE	0.00	1/1/06 - 3-31-06	\$57,019.45	\$13,713.54	\$43,305.91	\$17,322.36
PARKE	0.00	1/1/06 - 3-31-06	\$19,373.75	\$0.00	\$19,373.75	\$7,749.50
PERRY	0.00	1/1/06 - 3-31-06	\$12,198.54	\$3,326.87	\$8,871.67	\$3,548.67
PIKE	0.00	1/1/06 - 3-31-06	\$31,495.56	\$10,312.71	\$21,182.85	\$8,473.14
PULASKI	0.00	1/1/06 - 3-31-06	\$23,924.51	\$8,288.57	\$15,635.94	\$6,254.38
RUSH	0.00	1/1/06 - 3-31-06	\$41,719.05	\$15,407.15	\$26,311.90	\$10,524.76
SCOTT	0.00	1/1/06 - 3-31-06	\$33,562.04	\$9,451.69	\$24,110.35	\$9,644.14
SHELBY	0.00	1/1/06 - 3-31-06	\$56,685.37	\$0.00	\$56,685.37	\$22,674.15
SPENCER	0.00	1/1/06 - 3-31-06	\$11,264.03	\$1,355.27	\$9,908.76	\$3,963.50
STEUBEN	0.00	1/1/06 - 3-31-06	\$32,663.50	\$9,168.70	\$23,494.80	\$9,397.92
SULLIVAN	0.00	1/1/06 - 3-31-06	\$14,119.90	\$6,266.17	\$7,853.73	\$3,141.49
SWITZERLAND	0.00	1/1/06 - 3-31-06	\$22,565.50	\$7,451.08	\$15,114.42	\$6,045.77
TIPPECANOE	0.00	1/1/06 - 3-31-06	\$423,876.45	\$87,368.62	\$336,507.83	\$134,603.13
UNION	1.00	1/1/06 - 3-31-06	\$0.00	\$0.00	\$0.00	\$0.00
VANDEBURGH	0.00	1/1/06 - 3-31-06	\$396,028.00	\$9,798.63	\$386,229.37	\$154,491.75
VERMILLION	1.00	1/1/06 - 3-31-06	\$0.00	\$0.00	\$0.00	\$0.00
VIGO	0.00	1/1/06 - 3-31-06	\$282,815.51	\$64,667.31	\$218,148.20	\$87,259.28
WARREN	0.00	1/1/06 - 3-31-06	\$4,362.50	\$671.15	\$3,691.35	\$1,476.54
WASHINGTON	0.00	1/1/06 - 3-31-06	\$50,916.24	\$16,972.08	\$33,944.16	\$13,577.66
WELLS	1.00	1/1/06 - 3-31-06	\$0.00	\$0.00	\$0.00	\$0.00

WHITE	1.00	1/1/06 - 3-31-06	\$0.00	\$0.00	\$0.00	\$0.00
WHITLEY	0.00	1/1/06 - 3-31-06	\$49,557.60	\$9,498.54	\$40,059.06	\$16,023.62
TOTAL			\$8,260,765.19	\$1,742,790.14	\$6,517,975.05	\$2,607,190.01

notes:

Adams - 117 total - 38 misdemeanors - claims ADEQUATE support- reports 1Q06 only

Allen - 982 total - 1 misdemeanor - excludes 3 misdemeanor attorneys assigned 762 cases in 1Q06 - reports 1Q06 only

Benton - 41 total - 16 misdemeanors reports 1Q06 only

Blackford - needs spreadsheet for attorneys

Carroll - 86 total - 31 misdemeanors - reports 1Q06 only

Clark - 195 total - 7 non-reimbursable JC, JT or Title IV cases - claims ADEQUATE support - reports 1Q06 only

Decatur - 102 total - 60 misdemeanors - claims ADEQUATE support - reports 1Q06 only

Fayette - 105 total - 20 misdemeanors and 14 non-reimbursable JC or JT cases - reports 1Q06 only

Floyd - 150 total - 0 misdemeanors this quarter! OLD v. NEW COMPARISON

Fountain -93 total - 41 misdemeanors, 1 Title IV - reports 1Q06 only

Fulton - 104 total - 32 misdemeanors and 19 non-reimbursable JC or JT cases - reports 1Q06 only

Grant - 246 total - 14 misdemeanors - county pays \$110/hr for MH cases - reports 1Q06 only

Greene - 67 total - reports 1Q06 only

Hancock - 128 total - 42 misdemeanors and 5 non-reimbursable JC or JT cases - reports 1Q06 only

Henry - 135 total - 1 misdemeanors - reports 1Q06 only

Jasper - 173 total - 65 misdemeanors and 11 non-reimbursable JC, JT or GAL cases - 1Q06 only

Jay - 68 total - 23 misdemeanors and 9 non-reimbursable JC and JT cases - claims ADEQUATE support - reports 1Q06 only

Jennings - 90 total - 26 misdemeanors and 6 non-reimbursable JC and JT cases - reports 1Q06 only

Knox - 254 total - 83 misdemeanors and 10 non-reimbursable JC or JT cases - reports 1Q06 only

Kosciusko - 92 total - reports 1Q06 only

Lake - 551 total - 4 misdemeanors - claims ADEQUATE support

Laporte - 336 total - 91 misdemeanors and 12 non-reimbursable JC, JT or Title IV cases - reports 1Q06 only

Madison - 849 total - 9 misdemeanors and 38 non-reimbursable JC, JT, Title IV, and civil cases

Marion - 8555 total - 4858 misdemeanors - 0 JC or JT reported?

Miami - 152 total - 34 non-reimbursable JC, JT and civil cases

Monroe - 433 total - 170 misd and 21 non-reimb JC or JT cases - Claims ADEQUATE support by not reporting Misd attorneys - 1Q06 only

Montgomery - 229 total - 112 misdemeanor and 8 non-reimbursable JC or JT cases - reports 1Q06 only

Noble - 96 total - 1 misdemeanor - 2 non-reimbursable cases - claims ADEQUATE support - reports 1Q06 only

Ohio - 53 total - 27 misdemeanors and 1 non-reimbursable civil case - reports 1Q06 only

Orange - 49 total - 19 misdemeanors -claims ADEQUATE support

Parke County - 37 total 0 misdemeanors - reports 1Q06 only

Perry - 14 total - 6 misdemeanors - reports 1Q06 only

Pike -75 total - 37 misdemeanors - reports 1Q06 only

Pulaski - 75 total - 27 non-reimbursable JC, JT, GAL and civil cases - claims ADEQUATE support - reports 1Q06 only

Rush - 78 total - 22 misdemeanors and 16 non-reimbursable JC or JT cases - reports 1Q06 only

Scott - 195 total - 82 misdemeanors and 3 non-reimbursable other cases-

Shelby -130 total - 0 misdemeanors -claims ADEQUATE support - reports only 1Q06

Spencer - 48 total - 7 misdemeanors and 2 non-reimbursable JC or JT cases

Steuben - 292 total - 128 misdemeanors - reports 1Q06 only

Sullivan - 78 total - 46 misdemeanors and 2 non-reimbursable JC or JT cases - claims ADEQUATE support - reports 1Q06 only

Switzerland - 293 total - 102 misdemeanors and 35 non-reimbursable JC, JT or civil cases

Tippecanoe - 810 total - 221 misdemeanors and 39 non-reimbursable Title IV cases reports 1Q06 only

Vanderburgh - 970 total - 0 misdemeanors - 24 non-reimbursable other cases - claims ADEQUATE support - reports 1Q06 only NO JUVI cases

Vigo - 595 total - 190 misdemeanors and 23 non-reimbursable JC or JT cases

Warren - 30 total - 8 misdemeanors - reports 1Q06 only

Washington - 180 total - 72 misdemeanors- 15 Title IV cases - reports 1Q06 only

Whitley - 32 total - 4 misdemeanors - 4 JC, JT or civil cases -reports 1Q06 only

Mike Murphy continued the discussion with issues in Vanderburgh County. He stated Vanderburgh County has not been reporting misdemeanor cases or their entire juvenile department. Both areas are out of compliance. Steve Owens, Chief Public Defender of Vanderburgh County, stated the misdemeanor cases were not reported

because they are non-reimbursable. He explained that at the time Vanderburgh started in the plan, the juvenile department had been operating out of compliance, and since that was not going to be in the plan, then we wouldn't be receiving any reimbursement for that, so we didn't report. The current caseloads of the three juvenile attorneys handling mixed caseloads would need seven part-time public defenders to be in compliance.

Steve Owens said he asked to be placed on the agenda to get a feel from the Commission as to what they want us to do. He stated we have been given apparently mixed messages over the course of the five and a half years. Chairman Lefstein said he was not aware that the Commission had ever taken steps to excuse Vanderburgh County from reporting delinquency cases. He noted that Marion County was given leeway when their juvenile department was out of compliance, until the matter required further action.

After more discussion, Mr. Owens requested that the Commission not view Vanderburgh County out of compliance, but allow us time to resolve this issue. He stated it might mean going to three or four judges and refusing to take juvenile matters, or contracting out those cases.

Monica Foster stated that Marion County was helped with their juvenile caseload problem when the Commission wrote letters to the council for funding. Steve Owen said he believed a letter from the Commission to the Vanderburgh County Commissioners would be helpful. He stated further that he does not need a 5-year plan to get into compliance, but that Vanderburgh would need some time. Monica Foster moved that the Commission give Vanderburgh County until January 1, 2007 to get their juvenile cases into compliance. Sen. Timothy Lanane seconded the motion. Motion passed. Bettye Lou Jerrel abstained from voting.

Mike Murphy reported that Steuben and Switzerland Counties had attorneys whose caseloads were seriously out of compliance for the 1st quarter. Chairman Lefstein wanted more communication with those counties, and stated he and staff counsel would talk about it.

Regarding Noble County, Mike Murphy informed the Commission that this county was reporting their attorney caseloads on "adequate staffed" sheets, by considering one office staff person as 33% secretary, 33% paralegal and 33% investigator. Mr. Murphy said he had talked with Noble County concerning this reporting method, and the Chief Public Defender, Jim Abbs told staff counsel that he had an agreement with a person outside the office who would do investigations if needed. Noble County has never reported any investigative expenses and they do not, in fact, have a contract with the investigator. Mike Murphy noted that 12 other counties use the "adequate support staff" forms, but do not have four attorneys to one paralegal, to one investigator, and to one secretary. For instance, Adams County has three part-time contract attorneys to one secretary.

As regards Noble County, Rep. Ralph Foley said they have only two attorneys to one staff person. He said the Commission should make sure there is some investigative staff to support those two attorneys. If someone is fulfilling that function in some reasonable fashion, then we probably would not deprive Noble County of funding, but what we want to know is that person fulfilling an investigatory function.

Rep. Ralph Foley asked the Commission if it would be acceptable to approve Noble County's claim for the 1st quarter with the understanding that we will ask for some further explanation regarding the investigative services. Les Duvall so moved, and Ralph Foley seconded the motion. Motion passed unanimously.

Chairman Lefstein then discusses the other counties excluded in the vote to reimburse the non-capital expenses. Monica Foster moved to approve Steuben and Switzerland with the idea that we would be sending them a letter about the caseloads issues. Bettye Lou Jerrel seconded the motion. Motion passes unanimously.

10) Next **Meeting Date**: The Commission set the 2nd quarter meeting for Thursday, October 5, 2006 at 2:00 p.m. and the 3rd quarter meeting for Thursday, December 14, 2006 at 2:00 p.m.

11) Criminal **Rule 24**: A letter from Pat Biggs, President of the Indiana Chief Defender Association, proposing changes to Criminal Rule 24 was discussed by the Commission. The letter suggested changing CR24 from having the trial court judge appoint a qualified defense attorney in a capital case to allowing the public defender, in counties that have a public defender office or agency, to appoint two attorneys for capital cases. Monica Foster stated from a historical perspective the Commission already suggested such a change to CR24, and the Court rejected it. However, she said she believes it is time to go back to the Court with several possible changes. Ms. Foster would like limits on the number of capital cases one attorney can handle. Chairman Lefstein stated he would form a subcommittee of the Commission to consider changes to CR24.

12) Proposal **for Counting Probation Violations**: Mike Murphy, staff counsel, explained this proposal says that if the case number has been listed as a case handled by a public defender, it should not be listed again when a public defender accepts the case for probation revocation purposes. The Proposal for Counting Probation Violations is as follows:

Any probation violation charge, under a Cause Number that was previously defended by a court-appointed public defender, shall not be counted as a new case. Any probation violation, under a Cause Number that was previously defended by private counsel, and a public defender is appointed by the court to defend the probation violation charge, said case shall be counted as a new case.

Reportable probation violation cases shall be listed on the New Case Assignment Worksheet in the column titled "Adult Probation Violation, and Mental Health," with a maximum caseload of 150.

Monica Foster moved to adopt the proposal on counting probation violations, and Bettye Lou Jerrel seconded the motion. Motion passed unanimously.

13) Requests **for Reconsideration of Denied Reimbursement in Non-capital Requests**: Mike Murphy, staff counsel, reported on the response to denied requests for Adams, Jasper and Pike counties. He noted that Adams County stated they did send the reimbursement request, but the Commission staff never received it; Jasper County claimed it did not know the forms had changed; and, Pike County has a completely new public defender board. Judge Donohue moved to approve all three claims. Bettye Lou Jerrel seconded the motion, with the caveat that staff will visit all three counties. Motion passed unanimously.

In conclusion of the meeting, the Commission encourages the staff, if possible, to notify Chief Defenders with recommendations, so they have the option to respond at meetings. It was also the consensus of the Commission members that they do not want copies of each county's spreadsheets in their packets, only the summary sheet. Meeting adjourned at 4:50 p.m.

Norman Lefstein, Chairman

Date